



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVL03000 L58480000.EU0000 241 XXX; MO#4500144123]

Notice of Realty Action: Modified Competitive Sale of Two Parcels of Public Land in Lincoln County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer two parcels of public land totaling 80 acres in Lincoln County, Nevada, by modified competitive sale at not less than each parcel's appraised Fair Market Value (FMV) pursuant to the Lincoln County Conservation, Recreation, and Development Act of 2004 (LCCRDA). The sale will be subject to the applicable provisions of Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA). The BLM has completed an Environmental Assessment (EA) for the sale.

DATES: Submit written comments regarding the sale until [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The modified competitive sale is to occur by an online auction hosted by EnergyNet, the BLM's service provider.

The online sale will take place on July 21, 2021, at 8:00 a.m., Pacific Time, at EnergyNet website at https://www.EnergyNet.com/govt_listing.pl. In advance of the sale and no later than 30 days prior to the sale, a sales matrix providing the FMV for each sale parcel will be published on the following website: https://www.EnergyNet.com/govt_listing.pl. Parcels may be viewed online at the EnergyNet website approximately 10 business days after the posting of this Notice of Realty Action in the Federal Register.

ADDRESSES: Mail written comments to the BLM Caliente Field Office (CFO), P.O.

Box 237 (1400 South Front St.), Caliente, NV 89008-0237.

FOR FURTHER INFORMATION CONTACT: Nicole Cummings by email:

ncummings@blm.gov, or by telephone: 775-289-1809. For general information on previous BLM public land sales go to: <https://blm.gov/lccrda>. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

In accordance with the LCCRDA, 85 percent of the funds generated by this sale will be used for archaeological resources, natural resource protection, recreation and wilderness planning, and other opportunities in Lincoln County. Additionally, five percent of the revenue would go to the State of Nevada General Education Fund and 10 percent of the revenue would go to Lincoln County.

In order to determine the FMV through appraisal, the Department of the Interior may have made certain extraordinary assumptions and hypothetical conditions concerning the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the BLM advises that these assumptions may not be endorsed or approved by units of local government.

It is the buyer's responsibility to be aware of all applicable federal, state, and local government laws, regulations and policies that may affect the subject lands, including any required dedication of lands for public uses. It is the buyer's responsibility to be aware of existing or prospective uses of nearby properties. When conveyed out of federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It is the responsibility of the

purchaser to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should make themselves aware of any federal or state law or regulation that may impact the future use of the property. Any land lacking access from a public road or highway will be conveyed as such and acquiring future access will be the responsibility of the buyer.

Both parcels of public lands that BLM proposes to offer are in Lincoln County; one is located near the town of Panaca and the other one is located near the community of Rachel.

The subject public lands are legally described as:

Mount Diablo Meridian, Nevada

N-94767, 40 acres

T. 2 S., R. 67 E.,

sec. 23, NE1/4NE1/4.

N-94728, 40 acres

T. 4 S., R. 55 E.,

sec. 2, SE1/4NE1/4.

The areas described aggregate 80 acres, according to the official plats of the surveys of said lands on file with the BLM.

The sale will be held online at https://www.EnergyNet.com/govt_listing.pl

The BLM will publish this Notice of Realty Action once a week for three consecutive weeks in the *Lincoln County Record* newspaper. Prior to the sale, a sales matrix will be published on the following website:

https://www.EnergyNet.com/govt_listing.pl. The sales matrix provides information specific to each sale parcel such as legal description, physical location, encumbrances, acreage, and FMV. The FMV for each parcel will be available in the sales matrix no later than 30 days prior to the sale.

Information concerning the sale parcels, including encumbrances of record, appraisals, reservations, procedures and conditions, Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), and other environmental documents that may appear in the BLM public files for the sale parcels. These BLM public files are available for review by appointment only, during business hours, from 8:00 a.m. to 4:30 p.m. Pacific Time, Monday through Friday, at the BLM CFO, except during Federal holidays.

This sale is in conformance with the Ely District Record of Decision and Approved Resource Management Plan (ROD/RMP) dated August 20, 2008 (Lands and Realty objectives LR-8, page 66; and Appendix B, page B-1, respectively). A parcel-specific Environmental Assessment DOI-BLM-NV-L030-2018-0016-EA (<https://eplanning.blm.gov/eplanning-ui/project/120483/570>), Finding of No Significant Impact, and Decision Record September 12, 2019 were completed in connection with this Notice of Realty Action.

Submit comments to the address in the “**ADDRESSES**” section. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment -- including any personally identifiable information -- may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of any comments, this realty action will become the final determination of the Department of the Interior.

The use of the modified competitive sale method is consistent with 43 CFR

2711.3-2. Public lands may be offered for sale by modified competitive bidding procedures when the authorized officer determines it is necessary based on public policies. Following Centers for Disease Control recommendations to coordinate with state and local health officials on mitigating the risk of COVID-19 transmission, the BLM has determined that utilizing an online auction would maximize the opportunity for public input and involvement while prioritizing the health and safety of BLM employees and the interested public. This approach is consistent with the State of Nevada's current COVID-19 Mitigation and Management Guidance for Safe Gatherings, which limits the size of public gatherings to 250 individuals, or 50 percent occupancy (whichever is fewer). While local guidance is subject to change over time, the BLM's requirements to provide advance public notification regarding the sale and procedures for participation, limit our ability to adapt or change with updated guidance. Therefore, the BLM will adhere to holding this sale online, as this method offers the most assurance that a sale can be conducted whether or not COVID-19 restrictions are lessened or increased.

Sale procedures and registration process:

Federal law requires that bidders must be:

- (1) a citizen of the United States, 18 years of age or older;
- (2) a corporation subject to the laws of any state or of the United States;
- (3) a state, instrumentality, or political subdivision authorized to hold property; or
- (4) an entity legally capable of conveying and holding lands or interests therein under the laws of the State of Nevada.

The successful bidder must submit proof of citizenship or articles of incorporation within 30 days from receipt of acceptance of bid letter. Evidence of United States citizenship is a birth certificate, passport, or naturalization papers. Citizenship documents or Articles of Incorporation (as applicable) must be provided to the BLM CFO for each sale.

To participate, prospective buyers must create an EnergyNet account, complete the EnergyNet Bidding Terms Agreement, request a bidding allowance, register for the BLM Nevada LCCRDA Spring 2021 Land Sale, and obtain a bidder number.

Registration for online bidding will be available prior to the sale date at EnergyNet's website (https://www.EnergyNet.com/govt_listing.pl). When the auction website becomes active, potential bidders may obtain information on it regarding how to submit competitive online bids via the internet for the sale by clicking on the orange "Register for Sale" button on the blue "BLM Nevada LCCRDA Spring 2021 Land Sale" banner. Additional information on how to register at EnergyNet may be found at https://www.energynet.com/page/Government_Listings_Participation.

Assistance creating an EnergyNet account and registering for the sale is available by telephoning the EnergyNet Government Resources department at 877-351-4488 and by using the following link to create a Buyer's Account:

https://www.EnergyNet.com/bidder_reg.pl?registration_choice=government. After the account is created, follow the link "Submit Bank Information Online" and fill in the form with the following information:

- Bank Name
- Banker's Name
- Telephone Number of Banker
- Address of Bank
- Requested Bid Allowance amount.

EnergyNet will verify the Bank Name is a recognized financial institution and contact the banker to ask if the prospective buyer has the financial means to cover the requested Bid Allowance, which is the limit or ceiling for bids and is NOT recorded as a bid or offer per property at auction. Upon receiving an affirmative answer, the allowance will be granted.

Important notes regarding your Bid Allowance: Requesting a bidding allowance may require approximately five (5) business days to determine bidder's financial qualifications. For security reasons, Bidders must contact their Banker and grant permission to speak to EnergyNet about their Bid Allowance request. EnergyNet will not request the account balance or ask any questions about assets or lines of credit. EnergyNet will not request the bank account number, nor will they have the ability to withdraw funds.

The auction website is open to the public. The internet-based land sale can be observed in real-time. However, you must register as a bidder on the website, in advance, in order to submit bids for a parcel. The auction website will be active and available for use approximately 10 days after the date of this Notice and will remain available for viewing until the completion of the auction. The available parcels listed in this Notice will be detailed on the EnergyNet. Interested parties may visit the website at any time. Potential bidders may register for the online auction as soon as the auction website is active.

Potential bidders are encouraged to visit the website prior to the start of the open bidding period to become familiar with the site and review the bidding instructions available at https://www.energynet.com/page/Government_Listings_Participation. Supporting documentation is available on the website to familiarize new users to the process and answer frequently asked questions.

Payments to the BLM will not be made through the auction website. At the conclusion of the final parcel's bidding period, the successful bidder for each parcel will be provided instructions by the online auction system via email on how to make the required payment to the BLM. In addition, you will be required to pay a commission fee to EnergyNet of 1.5 percent (a percentage) of the highest qualifying bid for each parcel purchased by successful bidders. EnergyNet will be submitting a separate invoice via

email to each successful bidder for the total amount due to the BLM and a separate invoice for the amount due to EnergyNet.

Parcels will begin online bidding at the established FMV. Each parcel will have its own unique open bidding period, with start and stop times clearly identified on the auction website. The open bidding period for each parcel will run for three hours from start to finish, and only bids placed during this three-hour period will be accepted. Each parcel will close bidding sequentially so that each bidder will know if they are the highest winning bid before subsequent parcels close. The website will display each current high bid, and the high bid bidder's number.

The online system allows participants to submit maximum bids, which is the highest amount a bidder is willing to pay for each parcel to enable a bidder to participate in the online auction without having to be logged into the website at the time the auction period closes. The auction website provides a full explanation of placing maximum bids, as well as an explanation of how they work to place bids on your behalf to maintain your high bidder status up to the chosen maximum bid amount. The BLM strongly encourages potential bidders to review the bidding tutorial, in the Frequently Asked Questions area on the auction website in advance of the sale. EnergyNet will declare the highest qualifying bid as the high bid. The successful bidder must submit a deposit of not less than 20 percent of the successful bid amount by 4:00 p.m., Pacific Time, immediately following the close of the sale in the form of a certified check, postal money order, electronic fund transfer, bank draft, or cashier's check made payable in U.S. dollars to the "Department of the Interior, Bureau of Land Management."

The BLM will send the successful bidder(s) an acceptance of bid letter with detailed information for full payment. In accordance with 43 CFR 2711.3-1(d), the successful bidder will forfeit the bid deposit if they fail to pay the full purchase price within 180 days of the sale. The BLM will make no exceptions. The BLM cannot accept

the remainder of the bid price at any time following the 180th day after the sale.

If a bidder is the apparent successful bidder with respect to multiple parcels and that bidder fails to submit the minimum 20 percent bid deposit resulting in default on any single parcel following the sale, the BLM may cancel the sale of all parcels to that bidder. If a successful bidder cannot consummate the transaction for any reason, the BLM may consider the second highest bidder to purchase the parcel. If there are no acceptable bids, a parcel may remain available for sale on a future date without further legal notice.

The BLM CFO must receive the request for escrow instructions prior to 30 days before the prospective patentee's scheduled closing date. There are no exceptions.

All name changes and supporting documentation must be received at the BLM CFO by 4:30 p.m. Pacific Time, 30 days from the date on the high-bidder letter. There are no exceptions. To submit a name change, the apparent successful bidder must submit the name change in writing on the Certificate of Eligibility form to the BLM CFO.

The BLM must receive the remainder of the full bid price for the parcel no later than 4:30 p.m. Pacific Time, within 180 days following the day of the sale. The successful bidder must submit payment in the form of a certified check, postal money order, bank draft, cashier's check, or make available by electronic fund transfer payable in U.S. dollars to the "Department of the Interior - Bureau of Land Management" to the BLM CFO. The BLM will not accept personal or company checks.

Arrangements for electronic fund transfer to the BLM for payment of the balance due must be made a minimum of two weeks prior to the payment date. The BLM will not sign any documents related to 1031 Exchange transactions. The bidder is responsible for timing for completion of such an exchange. The BLM cannot be a party to any 1031 Exchange.

In accordance with 43 CFR 2711.3-1(f), the BLM may accept or reject any or all offers to purchase or withdraw any parcel of land or interest therein from sale within 30

days, if the BLM authorized officer determines consummation of the sale would be inconsistent with any law, or for other reasons as may be provided by applicable law or regulations. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is paid.

According to the LCCRDA, Public Law 108-424 section 102(g), lands identified within the Ely Resource Management Plan are withdrawn from location and entry under the mining laws and from operation under the mineral leasing and geothermal leasing laws until such time as the Secretary of the Interior (Secretary) terminates the withdrawal or the lands are patented.

Upon publication of this Notice in the *Federal Register*, the described land will be segregated from all forms of appropriation under the public land laws, except for the sale provisions of the FLPMA. Upon publication of this Notice and until completion of this sale, the BLM will no longer accept land use applications affecting the parcels identified for sale. The parcels may be subject to land use applications received prior to publication of this Notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcel. The segregated effect of this Notice terminates upon issuance of a patent or other document of conveyance to such lands, publication in the *Federal Register* of a termination of the segregation. The total segregation period may not exceed two years unless it is extended by the BLM State Director, Nevada prior to the termination date in accordance with 43 CFR 2711.1-2(d).

Terms and Conditions: FLPMA Section 209, 43 USC 1719(a), states that “all conveyances of title issued by the Secretary... shall reserve to the United States all minerals in the lands.” Accordingly, all minerals for the sale parcels will be reserved to the United States. The patents, when issued, will contain a mineral reservation to the United States for all minerals.

In response to requests to clarify this mineral reservation as it relates to mineral

materials, such as sand and gravel, we refer interested parties to the regulations at 43 CFR 3601.71(b), which provides that the owner of the surface estate of lands with reserved Federal minerals may “use a minimal amount of mineral materials for . . . personal use” within the boundaries of the surface estate without a sales contract or permit. The regulation provides that all other use, absent statutory or other express authority, requires a sales contract or permit. The BLM refers interested parties to the explanation of this regulatory language in the preamble to the final rule published in the *Federal Register* in 2001, available at <https://www.federalregister.gov/d/01-29001>, which stated that minimal use “would not include large-scale use of mineral materials, even within the boundaries of the surface estate” (66 FR 58894). Further explanation is contained in BLM Instruction Memorandum No. 2014-085 (April 23, 2014), available on BLM’s website at <https://www.blm.gov/policy/im-2014-085>.

The parcels are subject to limitations prescribed by law and regulation, and certain encumbrances in favor of third parties. Prior to patent issuance, a holder of any Right-of-way (ROW) within the sale parcels will have the opportunity to amend its ROW for conversion to a new term, including in perpetuity if applicable, or to an easement. The BLM will notify valid existing ROW holders of record of their ability to convert their compliant ROWs to perpetual ROWs or easements. In accordance with Federal regulations at 43 CFR 2807.15, once notified, each valid holder may apply for the conversion of their current authorization.

The following numbered terms and conditions will appear on the conveyance documents for the sale parcels:

1. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations to be established by the Secretary are reserved to the United States, together with all necessary access and exit rights;

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);
3. The parcels are subject to valid existing rights;
4. The parcels are subject to reservations for roads, public utilities, and flood control purposes, both existing and proposed, in accordance with the local governing entities' transportation plans; and
5. An appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or occupations on the leased/patented lands.

To the extent required by law, the parcel is subject to the requirements of Section 120(h) of the CERCLA, as amended. Accordingly, notice is hereby given that the lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor that any hazardous substances have been disposed of or released on the subject properties.

No warranty of any kind, express or implied, is given by the United States as to the title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of a parcel will not be on a contingency basis.

Authority: 43 CFR 2711.1-2

Shirley Johnson,
Field Manager,
Caliente Field Office.